

Judge Sim Lake
July 10, 1998

**THE ATTACHED MUST BE SERVED
WITH THE SUMMONS AND COMPLAINT
OR REMOVAL PAPERS**

Your attention is directed to the Court Procedures and attachments that are distributed in cases assigned to Judge Lake.

Plaintiff must serve these materials and the Order for Conference and Disclosure of Interested Parties on all defendants with the summons and complaint.

A party removing a case to this court has the same obligation as a plaintiff filing an original complaint. Proof reflecting service of these materials must be filed with the Clerk. A form of certificate for use in removed cases is included in these materials.

These procedures are to be used in conjunction with the Local Rules and not as a substitute for them.

MICHAEL MILBY, Clerk

By _____
Angie Sierra
Case Manager to
Judge Sim Lake

JUDGE SIM LAKE
United States Courthouse
515 Rusk Avenue, Room 9535
Houston, Texas 77002
Telephone: (713) 250-5177
Facsimile: (713) 250-5010

Angie Sierra, Case Manager
United States District Clerk
Post Office Box 61010
Houston, Texas 77208
Telephone: (713) 250-5514
Facsimile: (713) 250-5550

COURT PROCEDURES

1. Contact with Court Personnel
2. Emergencies
3. Continuances
4. Appearances
5. Motion Practice
6. Briefs
7. Initial Pretrial Conferences
8. Required Pretrial Materials
9. Trial Settings
10. Exhibits
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13. Voir Dire
14. Depositions
15. Settlements and Orders of Dismissal

July 10, 1998

1. CONTACT WITH COURT PERSONNEL

- A. Case-related telephone inquiries should be made only to the Case Manager. Inquiries should not be made to the court's secretary or law clerks.
- B. The case load will not allow the Case Manager to respond to casual telephone inquiries about motions and case status generally. Inquiries to the Case Manager should be by letter unless time does not permit.
- C. Information about the filing of documents, entry of orders, or docket entries should be obtained from the United States District Clerk's Office (713/250-5115).
- D. Case-related correspondence must be addressed to:

United States District Clerk
Post Office Box 61010
Houston, Texas 77208
- E. Do not address substantive issues in letter form because they are not docketed or included in the appellate record.
- F. Copies of urgent documents (including letters) may be sent to chambers.

2. EMERGENCIES

- A. Applications for restraining orders or for other immediate relief shall be made through the Case Manager. Applications shall be presented to the court by the Case Manager following counsel's affirmation that the opposing party has been contacted and that both parties can be available for a conference before the court. Ex parte applications for restraining orders will not be entertained by the court unless the requirements of Fed. R. Civ. P. 65(b) have been satisfied.
- B. Motions for extension of deadlines in the Docket Control Order are not emergencies.

3. CONTINUANCES

- A. Joint motions for continuance are not binding, and they

will be granted at the court's discretion.

- B. Vacation requests will be respected if they are made well in advance of a court setting.
- C. A trial will not be continued because of the unavailability of a witness. Counsel should anticipate such possibilities and be prepared to present testimony by written deposition, videotaped deposition, or by stipulation.

4. APPEARANCES

- A. An attorney who appears at a conference or hearing shall
 - (1) be familiar with the case,
 - (2) have authority to bind the client, and
 - (3) be in charge for that appearance.
- B. If out-of-town counsel wish to appear by telephone, a written request should be made to the Case Manager as far as reasonably possible before the date of the conference or hearing. The court will attempt to accommodate such requests.
- C. Counsel will notify the Case Manager immediately of the resolution of any matter that is set for conference, hearing, or trial.

5. MOTION PRACTICE

- A. The court follows the written motion practice described in the Local Rules. Since most motions will be ruled on without an oral hearing, brief, clear motion papers are very important. The motion and response will be considered by the court after the submission date.
- B. The submission date may be extended by agreement of counsel except when the extension violates a court-imposed deadline. Counsel should immediately notify the Case Manager, in writing, of such an agreement.
- C. The court believes that most discovery disputes, especially those dealing with (1) scheduling, (2) the number,

length, and form of oral and written questions, (3) the responsiveness of answers to oral and written questions, and (4) the mechanics of document production, including protective orders and the proper method of raising claims of privilege, can be resolved by counsel without the intervention of the court.

The court will not hear discovery motions unless moving counsel advises the court, in the motion, that counsel have conferred in a good faith effort to resolve the matters in dispute but are unable to reach an agreement. If counsel have been unable to confer because of the unavailability or unwillingness of opposing counsel to do so, the statement shall recite the facts concerning attempts to confer.

- D. Requests for oral argument on motions are not necessary. The court will notify counsel if the court determines that oral argument would be beneficial. Counsel should be prepared at all conferences, hearings, and docket call to respond to questions from the court about all pending motions.
- E. The court will rule on motions as soon as possible. Counsel will be furnished with copies of orders.
- F. Counsel and all parties appearing pro se will deliver to chambers copies of all instruments filed within 7 days of any conference or hearing. Unless this rule is complied with the court will not consider any instrument filed within 7 days of any court appearance.

6. **BRIEFS**

- A. The court requires concise, pertinent, and well organized briefs and memoranda of law. Without leave of court any brief or memorandum shall be limited to 25 pages. Briefs and memoranda that are 10 pages or less must contain items (3), (4), (6), and (7) listed below. Any brief or memorandum that has more than 10 pages must contain all items listed below.

- (1) A table of contents setting forth the page number of each section, including all headings designated in the body of the brief or memorandum.
- (2) A table of citations of cases, statutes, rules,

textbooks, and other authorities, alphabetically arranged. All citations to United States Supreme Court cases should include a citation to the United States Supreme Court Reporter.

- (3) A short statement of the nature and stage of the proceeding.
 - (4) A statement of the issues to be ruled upon by the court and with respect to each issue a short statement, supported by authority, of the standard of review.
 - (5) A short summary of the argument.
 - (6) The argument shall be divided under appropriate headings succinctly setting forth separate points.
 - (7) A short conclusion stating the precise relief sought.
- B. If a party cites legal authority not found in the United States Code, Supreme Court Reporter, Federal Reporter, Federal Rules Decisions, Federal Supplement, Southwestern Reporter Second, or Vernon's Revised Statutes and Codes Annotated, the relevant parts of such authority must be submitted as an exhibit. If the authority is a case, the entire case must be included. All exhibits submitted in support of a motion, brief, or memorandum must be tabbed at the right margin. A party who submits more than five exhibits shall include a table of contents describing each exhibit and listing the tab where it is located. All citations to an exhibit must refer to the letter or number of its tab.

Citations to deposition or affidavit testimony must include the appropriate page or paragraph numbers. Citations to other documents or materials with three or more pages must include some sort of pinpoint citation. For example, a contract may be cited by section number, an employee handbook may be cited by page number, and a document without internal divisions may be Bates-stamped or otherwise marked and cited accordingly.

7. INITIAL PRETRIAL CONFERENCES

Refer to Local Rule 8 and the court's Order for Conference and

Disclosure of Interested Parties. The court will enter a docket control order and may rule on any pending motions at the conference. (Attached is a form of Docket Control Order used by the court.)

8. REQUIRED PRETRIAL MATERIALS

A. Joint Pretrial Order

The plaintiff is responsible for ensuring that the complete Joint Pretrial Order is filed on time. A form Joint Pretrial Order is attached. Follow the form distributed by the court, adapting it within reason to the size and type of case. Joint pretrial orders must be signed by all counsel and parties appearing pro se.

B. Other Required Documents

With the filing of the pretrial order, each party must also file:

(1) **For All Trials and Evidentiary Hearings:**

- a. Exhibit List
- b. Objections to Exhibits
- c. Witness List

(2) **For Jury Trials**

- a. A **single, joint** proposed jury charge, including all instructions, definitions, and questions.

Each requested instruction, definition, and question must be numbered and presented on a separate sheet of paper with authority.

Even if the parties, in good faith, cannot agree on all instructions, definitions, and questions, they will nonetheless submit a single, unified charge. Each disputed instruction, definition, and question is to be underlined and identified as disputed. Each disputed item should be labeled to show which party is requesting the disputed language. Accompanying the charge will be all authority on which the offering party

relies and on which the opposing party relies.

The charge must also be submitted on a 3-1/2" disk compatible with Corel WordPerfect 6.1.

b. Memorandum of law

(3) **For Non-Jury Trials**

a. Proposed Findings of Fact and Conclusions of Law. Each proposed conclusion of law will contain citation of legal authority supporting the conclusion. Counsel are strongly encouraged to include in proposed findings of fact references to testimony and exhibits that support each proposed finding.

b. Memorandum of law

9. TRIAL SETTINGS

- A. The court holds docket call the second Friday of the month at 4:00 p.m. The court uses docket call as a final pre-trial conference. All pending motions may be ruled on at docket call, and the case will be set for trial if the complete Joint Pretrial Order has been filed. At docket call the court will normally give the parties at least one week's notice of a trial setting.
- B. Unless an attorney has actually commenced trial in another court, prior trial settings will not cause a case to be passed after the court has set it for trial.
- C. If a case is not reached for trial on the day it is set, it will be subject to trial during the following two weeks on 48 hours' telephone notice.

10. EXHIBITS

- A. The authentication of exhibits and objections to exhibits are addressed in Local Rule 11. The offering party will mark his own exhibits with the party's name, case number, and exhibit number on each exhibit to be offered.
- B. Counsel will not pass exhibits to the jury during trial without obtaining permission from the court. All admitted exhibits will go to the jury during its deliberations.
- C. Counsel for each party is required to provide the court with a copy of that party's exhibits in a properly tabbed and indexed notebook.
- D. Counsel should become familiar with Local Rule 11.C. regarding disposition of exhibits following trial.

11. EQUIPMENT

- A. Counsel are responsible for providing sound and video equipment. Inform the judge's secretary before trial in writing (fax no. 713/250-5010) regarding equipment (not files) that you will need to bring to court so arrangements can be made to accommodate building security.
- B. Easels with writing pads, blackboards, and an x-ray view-box are available for use in the courtroom.

- C. A coin-operated copying machine is available for use by counsel in the law library on the sixth floor for five cents per copy. Because there is no change machine and the library staff does not make change, you must have quarters, dimes, or nickels to use this machine. Alternatively, Ikon Services provides copying service in the Clerk's Office on the first floor at the Intake counter for a fee to be paid in cash at time of service. The judge's staff is not available to make copies for counsel.

12. COURTROOM PROCEDURES

- A. Hours: The court's hours during trial will vary depending upon the type of case and the needs of the parties, counsel, witnesses, and the court. Court will normally convene by 8:30 a.m. and adjourn by 5:15 p.m., recessing for lunch between 11:45 a.m. and 1:30 p.m. Because the court schedules pretrial conferences and sentencings on Fridays, the court does not normally try cases on Fridays.
- B. Access at Other Times: Counsel needing access to the courtroom to set up equipment or exhibits before or after normal hours of court must arrange in advance with the Case Manager to have the courtroom open.
- C. Telephones: Telephone messages will not be taken by the Judge's staff, and counsel shall refrain from requesting use of telephones in chambers. Public telephones are available on the Ninth Floor.
- D. Filing of Documents: Two copies of documents filed immediately prior to and during trial should be submitted to the Case Manager or the law clerk present in the courtroom.
- E. Attorney Conference Rooms: Attorney conference rooms are available upon request to the judge's secretary. A key will be given to counsel by the secretary for use throughout the trial, and counsel will be responsible for clearing the room of all materials and returning the key to the secretary at the conclusion of the trial.
- F. Decorum:
- (1) Counsel and parties will comply with Local Rule 19 regarding Courtroom Behavior.
 - (2) Counsel will ensure that all parties and witnesses

refrain from chewing gum, drinking, eating, smoking, or reading newspapers, books, etc. in the courtroom. No telephone beepers, pagers, or cell phones are allowed in the courtroom.

G. Witnesses:

- (1) Counsel are responsible for summoning witnesses into the courtroom and instructing them on courtroom decorum. Witnesses may be questioned while the attorney is seated at the counsel table or standing at the podium.
- (2) Counsel shall make every effort to elicit from the witnesses only information relevant to the issues in the case and to avoid cumulative testimony.
- (3) Counsel should bear in mind the court's hours and arrange for witnesses accordingly. The court will not recess to permit counsel to call a missing witness unless he or she has been subpoenaed and has failed to appear.

H. Seating:

- (1) The court does not designate seating at counsel tables; this is determined on a first-come, first-served basis on the first day of trial.
- (2) Enter and leave the courtroom only by the front doors; do not use the court's entrance or the side entrances.

- I. While the jury is deliberating, counsel are to remain in the courtroom to be immediately available for jury notes or a verdict.

13. VOIR DIRE

The court will conduct a preliminary examination of the jury panel. Following the court's examination, the court will normally allow each side to briefly examine the panel.

14. DEPOSITIONS

- A. The court will accept the parties' agreement to use a

deposition at trial even though the witness is available; otherwise, follow Fed. R. Civ. P. 32.

- B. Before trial counsel must provide the Case Manager or law clerk with a copy of any deposition to be used at trial.

- C. Counsel will designate the portion of any deposition to be read by citing pages and lines in the joint pretrial order. Objections to those portions (citing pages and lines) with supporting authority must be filed at least three business days before trial.
- D. Use of videotape depositions is permitted if counsel edit to resolve objections.

15. SETTLEMENTS AND ORDERS OF DISMISSAL

A. Settlements

- (1) Upon the settlement of any case set for conference, hearing, or trial, counsel shall immediately notify the Case Manager.
- (2) Announcements of settlement must be followed by the closing papers within thirty days or the court will dismiss the case.
- (3) Upon settlement of a suit involving a minor plaintiff, counsel will jointly move for appointment of a guardian ad litem if there is a potential conflict of interest between the parent(s) and the minor. If counsel cannot agree on a guardian ad litem, each counsel will submit the names of three proposed ad litems, and the court will appoint a guardian ad litem. Contemporaneously with the motion for appointment, counsel will notify the Case Manager by letter requesting a settlement conference.

B. Orders of Dismissal

Any defendant upon whom service has not been perfected within 120 days after filing of the complaint will be dismissed sua sponte for want of prosecution in accordance with Fed. R. Civ. P. 4(m).

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO.
	§	
	§	
	§	
Defendant.	§	

CERTIFICATE OF SERVICE IN REMOVED ACTION

I certify compliance with the court's Order entered upon filing of the petition for removal of this action.

On _____, I served copies of the Order for Conference and Disclosure of Interested Parties and the Court Procedures on all other parties.

Date

Attorney for Defendant(s)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

	§	
	§	
Plaintiff(s),	§	
	§	
v.	§	CIVIL ACTION NO. H-__-__
	§	
	§	
	§	
Defendant(s).	§	

DOCKET CONTROL ORDER

This case will be controlled by the following schedule.

DEADLINES

1. _____ MOTIONS TO AMEND THE PLEADINGS
2. _____ MOTIONS TO ADD NEW PARTIES The attorney causing the addition of new parties will provide copies of this order and all orders previously entered in the case to new parties.
3. _____ MOTION TO CERTIFY CLASS The party seeking certification will file a motion and supporting memorandum by this date.
4. _____ Identification of plaintiff's experts and production of experts' reports in the form required by Fed. R. Civ. P. 26(a)(2)(B).
5. _____ Identification of defendant's experts and production of experts' reports in the form required by Fed. R. Civ. P. 26(a)(2)(B).
6. _____ COMPLETION OF DISCOVERY Written discovery requests are not timely if they are filed so close to this deadline that the recipient would not be required under the Federal Rules of Civil Procedure to re-

spond until after the deadline.

7. _____ LIMITS ON DISCOVERY

_____.
8. _____ DISPOSITIVE MOTIONS
9. _____ ALL OTHER PRETRIAL MOTIONS
10. _____ JOINT PRETRIAL ORDER AND MOTIONS IN
LIMINE Plaintiff is responsible for
timely filing the complete joint pretrial
order. The court will not accept sepa-
rate versions of the pretrial order.
11. _____ DOCKET CALL No instrument filed within 7
4:00 P.M. days of docket call will be considered.
All pending motions may be ruled on at
docket call, and the case will be set for
trial if the complete joint pretrial
order has been filed.

DATE

SIM LAKE
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

§
§
Plaintiff(s), §
§
v. § CIVIL ACTION NO. H-__-____
§
§
§
Defendant(s). §

JOINT PRETRIAL ORDER

Appearance of Counsel

List the parties, their respective counsel, and the addresses and telephone numbers of counsel in separate paragraphs.

Statement of the Case

Give a brief statement of the case for the information of the court and/or which the court may read to the jury panel to see if the panel is acquainted with the facts of or parties to the case. Include names, dates, and places.

Jurisdiction

Briefly set out why the court has full and complete jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state the problem.

Motions

Identify any pending motions.

Contentions of the Parties

State concisely in separate paragraphs what each party claims.

Admissions of Fact

List all facts which have been stipulated and admitted and require no proof.

Contested Issues of Fact

List all factual issues in controversy necessary to the final disposition of this case.

Agreed Applicable Propositions of Law

Delineate those legal propositions not in dispute.

Contested Issues of Law

State briefly the issues of law in dispute. A memorandum of authorities should be filed which addresses these issues.

Exhibits

Refer to Local Rule 11.

Each counsel will attach to this joint pretrial order two copies of a list (in the form shown by Attachment A or a similar form) of all exhibits to be offered and will make all such exhibits available for examination by opposing counsel. This rule does not apply to rebuttal exhibits, which cannot be anticipated.

The offering party will mark his own exhibits prior to trial and include the party's name, case number, and exhibit number on each exhibit to be offered.

Witnesses

List the names and addresses of witnesses who will or may be called and include a brief statement of the subject matter and substance of their testimony. If a witness is to appear by deposition, cite the inclusive pages and lines to be read. Objections to those portions (citing pages and lines) with supporting authority must be filed at least three business days before trial.

Each counsel will also attach to the joint pretrial order two copies of a list of witnesses' names for use only by court personnel.

Include in this section the following:

"In the event there are any other witnesses to be called at the trial, their names, addresses, and the subject matter of their testimony shall be reported to opposing counsel as soon as they are known. This restriction shall not apply to rebuttal or impeaching witnesses, the necessity of whose testimony cannot reasonably be anticipated before the time of trial."

Settlement

Include a statement that all settlement efforts have been exhausted, the current settlement demand and offer, and whether the case can reasonably be expected to settle.

Trial

Include in this paragraph the following:

- (a) whether trial will be Jury or Non-Jury;
- (b) probable length of trial; and
- (c) availability of witnesses.

Additional Required Attachments

(See paragraph 8 -- "Required Pretrial Materials" -- at pages 6-7 of the court's Procedures.)

Date

SIM LAKE
UNITED STATES DISTRICT JUDGE

APPROVAL REQUESTED:

Counsel for Plaintiff(s)

Counsel for Defendant(s)

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

_____ _____ vs. _____ _____ _____ _____	§ § § § § § § § § §	CA/CR NO. _____ <u>SIM LAKE</u> _____ JUDGE <u>Angie Sierra</u> _____ COURTROOM CLERK COURT REPORTER _____ PROCEEDING
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EXHIBIT LIST OF

NO.	DESCRIPTION	OFFR	OBJ	DATE	
				ADMIT	N/ADM
1					
2					
3					
4					
5					
6					
7					
8					
9					

